

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 1022 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.PARIKH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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DILIPBHAI SHRIPAT MARATHA

Versus

STATE OF GUJARAT

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Appearance:

MR PS CHAMPANERI for Petitioner

MR DN PATEL, ADDL.PUBLIC PROSECUTOR for Respondent No. 1

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CORAM : MR.JUSTICE M.S.PARIKH

Date of decision: 03/08/96

ORAL JUDGEMENT

Rule. Service of Rule waived by Mr. D.N.Patel,  
learned A.P.P. on behalf of the State.

2. In this petition under Article 226 of the Constitution of India the petitioner has prayed for withdrawing the complaint filed by him at Cr.No.II-91/96 before the Valsad City Police Station. In the facts of

the case this matter is finally heard today.

3. The aforesaid complaint was lodged by the petitioner on 24th July 1996, that is to say, very recently. He had an occasion to prevent certain labourers from cutting the trees whereupon he was asked not to go there by the accused with further utterance that he would be killed. It is asserted by the petitioner that he ran away from the place as he apprehended that he would be assaulted. Now it is the case of the petitioner that in a hot haste he had given the complaint and he does not actually harbour any fear and that as a matter of fact on account of some inducement being given by some interested person, particularly by one Nitinbhai Anandji, he had an occasion to file the aforesaid complaint. In fact he had no intention or knowledge of lodging such complaint. When the said aspect was revealed to one of his friends it was pointed out that on account of filing such complaint some problem in future might arise to the complainant. He had, therefore, consulted some local lawyers about such complaint being lodged and he has been enlightened that the offences alleged can be compounded. However, since the offence under Section 506(2) of the Indian Penal Code is not compoundable under Section 330 of the Code of Criminal Procedure, he is required to move this application before this Court.

4. Mr.P.S.Champaneri, learned Advocate for the petitioner has expressed that the petitioner is sorry about the state of affairs attending the complaint and that he would not like to see that the cordial relations between the parties are, in any manner, strained. As a matter of fact he would like to see that the relations are maintained between the parties. Reference has been made to an order passed in Special Criminal Application No. 1697/95 (Coram : D.G.Karia, J.) on 12.1.1996 and Special criminal Application No. 485/96 (Coram : S.D. Dave, J.) on 20.4.1996 as also the decision in the case of Mohinder Singh & ors. V/s. State of Punjab & Ors., reported in 1994 (1) Crimes, Page 482.

5. Bearing in mind the peculiar facts and circumstances of this case and bearing in mind the petitioner's approach to the problem I find that relief prayed for in this petition deserves to be granted. Hence, Rule is made absolute in terms of Prayer : 8(A).

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